

MICHIGAN PHYSICAL THERAPY ASSOCIATION, INC.

Why are Physicians asking for this Legislation-HB 4325??? Physical Therapists Practice Electromyography (EMG) in the State of Michigan and there are NO Health, Safety or Welfare Issues for the People of Michigan

1. **Physical Therapists have the Education**. Nationally EMG and nerve conduction testing are taught in Physical Therapy academic and clinical programs. (*Education criteria from the section on clinical Electrophysiology, "Guidelines for Educational Preparation of Physical Therapists Performing Electroneuromyography" HOD APTA, 1977.*)
2. **Physical Therapists are Licensed to Practice Electromyography**. As an important and widely accepted part of physical therapy, practiced in this country for decades, the national Physical Therapy licensure exam contains questions on EMG and nerve conduction (*Federation of State Boards of Physical Therapy licensing*)
3. **The State of Michigan Licensing Board Rules Authorize Physical Therapists to Practice Electromyography**. The Michigan Physical Therapy licensing board has repeatedly ruled the performance of EMG is within the legitimate scope of Physical Therapy practice in Michigan. (1980, 1984, 2003 and 2004). Not a single complaint questioning PT professional competence or consumer safety regarding EMG services is on record. Under current statutes Physical therapists are authorized and have competently performed EMG tests in Michigan for over 35 years. The Insurance industry states no additional risk or malpractice cases are associated with a PT providing EMG services. (*CNA and AON Insurance affidavits*)
4. **Physical Therapists are Qualified**. Nationally recognized Physical Therapy professional associations offer quality continuing education, competence and performance standards in EMG. (*APTA section on Clinical Electrophysiology, ABPTS/APTA Board certification in clinical electrophysiology, American Congress of Electroneuromyography*)
5. **Physical Therapists have Written Standards For Nerve Conduction Published by the Federal Government**. Physical therapists have contributed substantially to the scientific and research literature relating to EMG. *Spielholz N. 1985. Manual of Nerve Conduction Velocity and Clinical Neurophysiology. 3rd Ed. New York: Raven Press*). The standards for nerve conduction published by the U.S. Department of Health and Human Services were written by physical therapists. (*Nelson RM, Nester DE DHHS Pub #90-113(NIOSH)*).
6. **Physical Therapists Perform a Cost Effective Service**. Physical therapists provide known benefits of freedom of choice and lower cost of services for referring practitioners and health consumers. (*Dillingham et al, Muscle and Nerve 2004*)
7. **Workers Compensation, Medicare, and other Health Insurers Recognize Physical Therapists as Competent Health Providers**. Physical Therapists are recognized and paid directly for professional and technical aspects of EMG tests. Physical therapists are credentialed EMG providers at US military treatment facilities world wide and US public Health Hospitals. (*CMS PM B-01-28. April 2001, MI department of Labor, and Utilization of Army physical therapists to perform clinical by health insurers including indemnity carriers, workers compensation and Medicare (CMS electrophysiologic evaluation document.)*)
8. **Physical Therapists' Standards of Professional Practice**. The performance and interpretation of EMG and nerve conduction testing findings is specifically mentioned as tests and measures utilized by physical therapists in the national guide to PT practice and in all subsequent editions. (*A guide to physical therapist practice, volume one: A description of patient management. Phys Ther. 1995; 75: 707-764.*)

Testimony
For House Health Policy Committee
State of Michigan

Health Policy Committee Members:

I would like to address the ability of the therapist to obtain specialized training and recognition for clinical electrophysiologic testing also known as electromyographic (EMG) and nerve conduction (NDV) testing. This type of education is available for therapists living and working in the state of Michigan

There are two distance programs providing didactic and clinical education in this area. One program is a doctorate of science degree in clinical electrophysiology from Rocky Mountain University of Health Professions. Students entering this program must be physical therapists with a Master's degree. This doctoral program includes course work in pathology and physiology as well as in nerve conduction testing and electromyography. There is also a clinical and research component to the program. Students travel to Rocky Mountain University for classes which are grouped into 6 day sessions with 9 hour class days. Class sessions are repeated every three months with home work and research being completed at home in the interim. Clinical experiences are arranged by the student with a mentor in the field of electromyography. The mentor can be local or the student may travel to obtain clinical experience. Students must successfully complete a comprehensive written and practical examination to be eligible to begin work on their doctoral research project. The practical exam includes performance of nerve conduction and needle electromyography, and oral questions regarding interpretation of the data collected. The student selects a doctoral research committee which must be approved by Rocky Mountain University. A successful oral defense of the research project is needed degree doctoral degree completion. A copy of the curriculum is included.

A second program providing instruction in electrophysiology is through a program called Clinical Benchmarks. This program is also a distance model and is located on the east coast. It focuses on clinical education in electromyography and nerve conduction studies with students traveling to courses.

Historically training through the Bethesda Naval residency program involved a 14 month course of didactic and clinical training culminating in a written examination to allow credentialing of the provider to perform and interpret EMGs for the Navy. This examination was graded by mentoring physical therapists and a neurologist.

Continuing education courses for physical therapist electromyographers have been available for over 30 years and have been sponsored by the American Physical Therapy Association, Electrophysiological Testing symposiums, Rocky Mountain University, and Health Education Associates.

Board Certification in clinical electrophysiology is also an option for the physical therapist. Candidates are eligible to sit for the electrophysiologic clinical specialty exam (ECS) when they have completed 2000 hours of supervised EMG and Nerve conduction testing, and have submitted three cases for review by the board of clinical specialties.

In summary, physical therapists are well qualified by their entrylevel training in anatomy, physiology, clinical examination and pathology to excel in advanced clinical education programs for EMG and Nerve conduction testing. There are available advanced doctoral opportunities for physical therapists seeking to develop and improve their skills in the area of electrophysiologic testing. Physical therapists specializing in electrophysiology have also been recognized by the American Board of Physical Therapy Specialties for greater than 15 years.

Thank you for the opportunity and please let me know if I can be of any assistance:

MAJ Kathleen Galloway, PT, DSc, ECS

Assistant Professor
Oakland University
Rochester, MI 48309
248-494-1011 (cell)
Galloway@oakland.edu

IMA for the Director,
Bone Health Research Program
US Army Research Institute of Environmental Med.
Military Performance Division
42 Kansas Street
Natick, MA 01760

NAVAL MEDICAL CENTER PORTSMOUTH
PHYSICAL THERAPY DEPARTMENT
620 JOHN PAUL JONES CIRCLE
PORTSMOUTH, VA 23708

Telephone: (757) 953-1464/5

FAX: (757) 953-0809

01 March 2005

Dear Representative Gaffney:

This letter is written for two purposes:

1. To illustrate the safety and efficacy of physical therapists performing and interpreting needle electromyography (EMG) and nerve conduction studies (NCS) for decades.
2. To illustrate that physician attempts to prevent physical therapists from performing and interpreting EMG/NCS is merely a turf battle in the competition for the U.S. health care dollar.

Physical therapists in the U.S. military and the U.S. Public Health Service have been performing and interpreting EMG/NCS safely and accurately for over 30 years. A recent (2002) survey of Army, Navy, and Air Force physical therapists showed that numerous physical therapists are currently performing and interpreting needle EMG and NCS for referring physicians at facilities all over the world. Furthermore, this survey revealed that zero incidences of adverse outcomes or evidence of substandard care occurred while physical therapists were providing this service. This included over 4000 patients undergoing EMG/NCS by physical therapists in the year of the survey (2002). At many of these facilities, physical therapists co-exist with MDs Neurologists or physiatrists performing these services.

Certain physician groups spend much time and energy attempting to restrict physical therapists from performing and interpreting EMG and NCS. Support that this is merely a "turf battle" is illustrated well when looking at the military and U.S. Public Health Care Systems. In this system, competition for the health care dollar is non-existent. The facts below support that physician attempts at limiting the physical therapists' practice is nothing more than a turf battle.

- At government facilities, MDs and physical therapists co-exist with both specialties performing these studies without conflict.
- Neurologist and physiatrist refer patients for EMG/NCS and interpretation at many of these facilities
- At one of the largest naval medical centers, the neurology department actually diverts referrals sent to them for EMG/NCS to the physical therapy department to assist them in meeting the large demand for these studies.
- At this same large naval medical center where the physical therapy department performs and interprets over 800 EMG/NCS studies per year, the orthopedic surgeons have a choice to send their patients needing EMG/NCS studies to the physiatrist, neurologist, or physical therapist. Because of the thorough and high quality studies the physical therapy department provides, these surgeons purposely and specifically refer their patients needing EMG/NCS to the physical therapy department. This same situation exists at many of the smaller Army and Navy hospitals.

- At one of the Army's largest medical centers, the neurology department welcomed physical therapists into their department to perform and interpret EMG/NCS studies for them instead of referring these patients to the physical medicine department where a physiatrist could perform these studies.

The physician groups attempting to limit physical therapist performing and interpreting EMG/NCS are obviously financially motivated and propelled by self-interest. In the civilian sector where the competition for the health care dollar is keen, the aggressive rival efforts used to limit the physical therapist's practice is done with bold disregard for the well-documented history of physical therapists safely and accurately performing these studies. In the military and U.S. Public Health Service, economics is not an issue. In this light and from my perspective, physical therapists and physicians co-exist in providing these studies for the same patient population therefore such conflicts as seen in the legislature on the civilian side must root from the reimbursement or revenue factor. Please contact me if further information is desired.

Sincerely,

CAPT Gregory P. Ernst, PT, PhD, ECS
Medical Service Corps, United States Navy
Physical Therapy Consultant to the Navy Surgeon General

March 1, 2005

Representative Edward Gaffney, Chairman
Michigan House of Representatives

Health Policy Committee

S0585 House Office Building
P.O. Box 30014
Lansing, MI 48909-7514

RE: Hearing HB4325 - EMG / NCV qualifications.

Dear Chairman Gaffney and committee,

I am writing to you in lieu of a personal appearance concerning HB 4325 which includes certain amendments to the "Public Health Code".

The American Association of Electrodiagnostic Medicine (AAEM; originally the American Association of Electromyography and Electrodiagnosis, or AAEE), is an organization made up almost entirely of physiatrists (specialists in Physical Medicine and Rehabilitation) and neurologists. The organization is dedicated, as all medical specialties are, to the advancement of the art and science of that field. Indeed, starting with the AAEE, and being continued by the AAEM, the organization, through its members, has advanced the art and science of "electrodiagnosis" tremendously over the past 40 years (give or take a few). The organization's official journal, *Muscle and Nerve*, is one of the most respected peer-reviewed publications in the medical literature. The organization's annual meetings and other educational programs are outstanding.

There is, however, a down side to this organization that I would now like to bring to your attention, and this reflects directly on the above bill. This negative aspect of the AAEM is exemplified by this organization's efforts, extending over the past 30 years (I have examples of these if requested), to prohibit other health-care providers, such as physical therapists, from performing, interpreting, and being compensated for, these procedures. The time-honored reason given for this antagonism has typically revolved around "patient safety". Again and again, this organization (or its members) has warned how patients will be placed at risk because they have been examined by "untrained and unqualified practitioners" (i.e., physical therapists). Scenarios that have been proposed include mis-diagnoses (meaning that patients who should have surgery will not, or that patients who do not need surgery will have it), or that wrong treatment (non-surgical) will be rendered because the diagnosis given will be wrong, or that actual physical harm will come to patients (such as punctured eye-balls, perforated bowels or blood vessels, penetrated nerves, transmission of diseases), or even the forcing of examinations on mentally incompetent patients.

Surely one cannot fault a health-care organization like the AAEM for being concerned about patient safety, but the truth of the matter is that despite over 30 years of such predictions, the AAEM has never been able to show that such predictions have actually come to pass. Surely, if physical therapists doing this work are so terribly unqualified, then by now there must have been many such "tragedies". However, there is not one documented case of such malpractice against a physical therapist. To back up this "proof" of safety by physical therapists, as opposed to the empty predictions of the AAEM, the American Physical Therapy Association (APTA) received a letter from the CNA Insurance Company (one of the major underwriters of malpractice insurance for physical therapists), dated March 31, 2004, which states, in part, "After reviewing our claims database, which includes approximately 1,400 open and closed claims, we have not identified

any claims nationwide specifying electromyography or EMG as a cause for injury alleged against any of our insured physical therapists... The practice of electromyography or the performance of a nerve conduction study by a licensed physical therapist trained in this area of specialization are currently not risk factors that we foresee as having immediate claim or rate impact on this business."

Isn't it then about time, that the AAEM stopped these baseless fear tactics and faced the reality that properly trained and certified physical therapists do not place patients at risk any more than do properly trained and certified physicians?

The second issue that is clouded by the proposed wording in this bill (and is endorsed by the AAEM), concerns the sentence, "Electrodiagnostic medicine" means studies used to determine neuromuscular function such as nerve conduction studies and needle electromyography." Note that this sentence states the "electrodiagnostic medicine means studies used to determine neuromuscular function". Does this make sense? Electrodiagnostic medicine (if there is such a thing) certainly means more than "studies". In fact, whoever put these words to paper denigrates precisely what the AAEM is trying to formulate.

But more importantly is the fact that the terms "electrodiagnostic testing", or "electrodiagnostic studies" are themselves misnomers. The reason is that the studies (or should I say the results of the studies), do not make the "diagnosis". These studies simply yield laboratory evidence concerning the physiological state of the muscles and/or nerves tested, which is different from the cause (or the diagnosis) underlying the physiological state. And physical therapists who perform these studies are qualified and capable of interpreting the meaning of the findings in terms of what they mean physiologically (or patho-physiologically). This information is reported to the referring physician who then combines these findings with the patient's history, physical examination, and other laboratory test results in order to arrive at the "diagnosis". Of course, in the event that the findings are "more complicated" than expected, or are beyond the skills of the referring physician, then a referral to the appropriate specialist would be in order.

And the last issue I would like to address is the fact that the term "electrodiagnostic testing" does not only include electromyography or nerve conduction studies. After all, electrocardiography (EKG) and electroencephalography (EEG) are also "electrodiagnostic tests", and where does this bill leave the practitioners of these areas if "electrodiagnostic medicine" is defined as narrowly as it is in this bill?

In essence then, I suggest that this bill is ill-conceived, based on flawed reasoning, and whose real intent is to restrict the performance of a certain type of testing to a certain medical subspecialty to the detriment of others who are currently doing them.

Respectfully submitted,

Neil J. Spielholz, PhD, PT

Research Professor (retired)

University of Miami School of Medicine

Department of Orthopaedics and Rehabilitation

Division of Physical Therapy

SUBMITTED BY C.K.BANSIL, PT., Ph.D.

3/1/05 IN OPPOSITION TO HB 4325

INVOLVEMENT OF PHYSICAL THERAPISTS (PT) AS PROVIDERS OF
ELECTROMYOGRAPHY/NERVE CONDUCTION VELOCITY TESTING
(ET) IN RURAL MICHIGAN


Michigan is a state in which the population is spread thinly over a large, mostly rural area. Most of the needy patients are, therefore, unable to gain easy and timely access to specialty medical care.

Despite the numerous Home Health Agencies that have been founded in the past two decades to serve medical needs in the rural communities, the consumer has been unable to receive adequate service from all medical specialties, either due to a shortage in specialty practitioners or a lack of interest on the part of the qualified providers. ET is one such **shortage subspecialty in rural Michigan**.

I am a PT with a doctorate level education and have been providing ET services to home bound patients in rural Michigan for over ten years. Although many providers avoid this area because it is so time consuming and these patients are often in poor health and are in desperate need of medical attention. As far as I am aware, there is no other practitioner who provides ET services to home bound patients in eastern Michigan. I sincerely hope that the law makers will oppose House Bill 4325 by supporting me and my colleagues in an effort to continue to provide quality care to the residents living in rural Michigan.

I firmly believe that we can resolve the differences between the physicians and the physical therapists so that we may better serve our community. The past records have shown that physical therapists have performed ET services consistent with the established standards of practice. All we have to do is listen to each other with an open mind and join hands together to fight against the unqualified providers, so that we may provide superior care to the residents of the **great state of Michigan**. Lastly, I would like to ask each of you with due respect: *if you were to pass this bill as is, you would be taking away my livelihood. I can not help but ask, who has given you the right to do that without any reason?*

Thank you.


C.K. Bansil
28959 Augusta
Farmington Hills, MI 48331

March 1, 2005

**Representative Edward Gaffney, Chairman
Michigan House of Representatives -Health Policy Committee**

Hearing on HB4325,

Opposition to HB4325

**Testimony by: John J. Palazzo MS, PT, DSc (can), and ECS-Chair
American Congress on Electroneuromyography
Private Practice EMG consultant
Tri-County area, SE Michigan**

My name is John Palazzo. I am a licensed PT with doctoral training and practicing in Michigan since 1974. I have held board certification as an Electrophysiologic Clinical Specialist through the ABPTS since 1985 when the American Physical Therapy Association first offered it. I am one of the rare PTs grandfathered to practice EMG under the proposed HB4325 but in a restricted manner. Therefore, I would like to share the good points and the basic criticisms seen from my nearly 30 years of experience HB4325 does have merit however it will require change to make it a good law and good public policy.

I. Motivation behind HB4325

A. *Limit EMG/NCV test abuse and over-utilization by unqualified Physicians.*

Eighty percent (80%) of all EMG/NCV services are performed or supervised by a physician and billed by a physician or health care facility.¹ Presently any Michigan physician can legally perform and delegate EMG/NCV tests. Physician training varies from no EDX training, to physicians with multiple board certifications.

B. *Limit delegation and interpretation of NCV tests by unqualified physicians.*

Unqualified physicians performing or delegating EMG tests to unqualified personnel is a growing national trend.² Physicians often delegate the performance of these tests to assistants. Tests done by a tech is billed and is paid the same as if a physician had personally administered the test.

Lucrative turnkey EDX start up packages, marketed to physician offices, designed to improve profitability of physician practices are becoming more obvious in the health care market.³

II. Credentials

SEC17018 (1)(4) AN INDIVIDUAL WHO IS LICENSED AS A<MEDICAL OR OSTEOPATHIC PHYSICIAN> <PODIATRIST> AND HAS SUCCESSFULLY COMPLETED ADDITIONAL TRAINING IN THE PERFORMANCE AND INTERPRETATION OF ELECTRODIAGNOSTIC STUDIES THAT IS SATISFACTORY TO THE BOARD SHALL PERFORM NEEDLE ELECTROMYOGRAPHY OR INTERPRET NERVE CONDUCTION TESTS

This Physician EMG/NCV training requirement is a good concept. The vague wording for physician training and board approval is a major shortfall. The term "Additional training" and "satisfactory to the board" are not clear or adequately defined and are open to gross misinterpretation. What does additional training mean? Does "board" refer to any board granting advanced credentials? In 2004 there were 24 medical specialty boards that offer 39 board certifications and 92 sub specialty board certifications. Numerous boards offer credentials that include muscle and nerve evaluations. If "board" refers to the licensing board will this bill set a new precedent for state licensing boards to determine advanced training requirements for the specific procedures shared by many of the 131 different physician board certified specialists? Podiatrists have no known national board

¹ Dillingham et al. Muscle and Nerve, Feb 2004
² Mobile EDX -Health Care Fraud. Positive moves AAEM, Vol IX, No2, June 2001
³ Pain Care Holdings, Inc. Orlando FL (PR2-xxxx), www.paincareholdings.com
Advanced Mobile Services, Ferndale MI
Empire Medical Training, www.empiremedicaltraining.com
ALN Medical Management, www.alnmedical.com

certification in EMG/NCV and they are not eligible for the medical /osteopathic/PT type board credentials. How does this group qualify for inclusion under HB4325 without a track record in EMG/NCV or a known credentialing body?

III. Restrictions of the Physical Therapist

Board Certification. In contrast to the vague requirements for physician training, the credentialing provisions for the PT are sharply defined in SEC.17018 (s) ECS through the APTA /ABPTS. However, HB4325 fails to recognize several valid equivalent forms of advanced EMG credentialing available to the PT through the military, Post graduate institutions and various states like CA, PA, FL and TX.
Recommendation: All forms of advanced level competence in EMG /NCV should be recognized as determined by the PT board of licensure.

Five (5) Year Requirement Under HB4325 only the Board certified PT EMG specialists who have practiced in Michigan for the past 5 years qualify. This limitation is unfair, arbitrary and unnecessary. If the PT attains the prescribed and highest nationally recognized credential in order to assure safe and competent practice then what consumer benefit is achieved by imposing the additional requirement of 5 years of practice in Michigan? None...as this was intentionally crafted to extinguish all PTs from the Michigan EMG landscape. This will permanently ban new PTs from coming to practice in Michigan and force new Michigan graduate to relocate out of state.

Recommendation: Eliminate this requirement.

Interpretation by a Physician Another unreasonable restriction is found in Sec 17018 (s) a physical therapist ...may perform electrodiagnostic studies that are to be interpreted by a physician.

This is an unnecessary and confusing statement as physical therapists perform EMG/NCV tests on patients referred by physicians. The PT labels the final test findings in various ways including the terms, impression, interpretation, conclusion or results. This label is formulated as part of the professional component of the test and is also contained in a report to the referring physician. The phrase " interpreted by a physician" is extremely misleading and contrary the standards of practice and training of a board certified PT specialist. Providers and payors as requiring another level of physician service performed by a third party physician would easily misunderstand this clause.

Recommendation: An appropriate substitute to address the physician role would be:

"A physical therapist ...may perform electrodiagnostic studies that are referred by a physician."

Either of the following revisions to SEC 17018 would be acceptable:

SEC17018 AND SEC17518 (3) A PHYSICAL THERAPIST WHO IS LICENSED UNDER THIS ARTICLE AND CERTIFIED BY THE AMERICAN BOARD OF PHYSICAL THERAPY SPECIALTIES AS AN ELECTROPHYSIOLOGIC CLINICAL SPECIALIST ~~ON THE EFFECTIVE DATE OF THIS SECTION MAY PERFORM ELECTRODIAGNOSTIC STUDIES THAT ARE TO BE INTERPRETED BY A PHYSICIAN IF HE OR SHE HAS BEEN PERFORMING ELECTRODIAGNOSTIC STUDIES IN THIS STATE ON A CONSISTENT BASIS WITHIN THE 4 YEARS IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF THIS SECTION.~~

OR

(3) A PHYSICAL THERAPIST WHO IS LICENSED UNDER THIS ARTICLE AND HAS SUCCESSFULLY COMPLETED ADDITIONAL TRAINING IN THE PERFORMANCE AND INTERPRETATION OF ELECTRODIAGNOSTIC STUDIES THAT IS SATISFACTORY TO HIS OR HER RESPECTIVE BOARD MAY CONDUCT ELECTRODIAGNOSTIC STUDIES.

I respectfully submit that with the appropriate revisions made this bill would be of merit to the citizens of Michigan. Without the changes the bill should be opposed.